IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA

APPEAL FROM ORDER NO. 31 OF 2006
AND
CIVIL APPLICATION NO. 120 OF 2006

1. Shri Janu Paik Velip,
   aged about 78 years,
   married, r/o house No. 393
   Pareakatem, near the road,
   Cola, Canacona, Goa
   and his wife (Orig. Defendant No.6)

2. Smt. Malcum Janu Velip,
   aged about 70 years,
   married, housewife,
   r/o House No. 392,
   Pareakatem, Cola,
   Canacona, Goa (Orig. Defendant No.7) .... Appellants

Versus

1. Shri Sonu Vithoba Velip,
   son of Vithoba Velip,
   aged about 60 years,
   married, agriculturist,
   and his wife, (orig. Plaintiff No.1)

2. Smt. Kamlavati Sonu Velip,
   aged about 55 years,
   married, agriculturist,
   both r/o House no. 382,
   Pareakatem, Cola,
   Canacona, Goa (Orig. Plaintiff No.2)

3. Shri Bisso Oddo Velip,
   son of Oddo Velip,
   aged about 78 years,
   married and his wife, (Orig. Defendant No.1)

4. Smt. Malcum Bisso Velip (expired),
aged about 70 years,
married, housewife,
both r/o House No. 379,
Pareakatem, Cola,
Canacona, Goa. (Org. Defendant No.2)

(now deceased represented through her legal heirs)

4(a) Shri Gurko Bisso Velip
(son of deceased)

4(b) Smt. Rukmini Gurko Velip
(daughter-in-law of the deceased)

4(c) Shri Narayan Bisso Velip
(son of the deceased)

4(d) Smt. Sumitra Narayan Velip
(daughter-in-law of the deceased)

4(e) Smt. Dulu Janu Velip
(daughter of the deceased)

4(f) Shri Janu Vithoba Velip
(son-in-law of the deceased)

All major in age, married,
Agriculturist, r/o Pareakatem,
Cola, Canacona, Goa.

4(g) Smt. Shashikala Malgo Velip
(daughter of the deceased)

4(h) Shri Malgo Velip
(son-in-law of the deceased)

Both major in age, married,
Agriculturist, r/o Velipwada,
Barcem, Quepem, Goa.

4(i) Smt. Sumati Bisso Velip
(daughter of the deceased)

4(j) Shri Bisso Jiva Velip
(son-in-law of the deceased)
both major of age, married,
agriculturist, r/o Bondoi,
Naquerim, Quepem, Goa.

5. The Communidade of Cola,
represented by it President
Shri Anil Raia Prabhu Dessai
House No. now known
Shiroti, Cola, Canacona, Goa (Orig. Defendant No.3)

6. Shri Jaiwant Anant Prabhu Dessai
alias Rupesh Prabhu Dessai,
major of age, bachelor,
landlord, r/o House No. 326,
Matemoll, Cola, Canacona, Goa
Constituted attorney of the
Communidade of Cola, (Orig. Defendant No.4)

7. The Administrator of the
Communidades of South Zone,
having its office in the
Communidade building,
Margao, Goa. (Orig. Defendant No.5) .... Respondents

Shri J.P. Mulgaonkar, Advocate for the Appellants.

Shri J.E. Coelho Pereira, Senior Advocate with Shri V. Braganza, Advocate for Respondents No. 1& 2.

CORAM : **P.V. KAKADE, J**.

DATE : **20th September, 2006**

ORAL ORDER

Heard the learned Counsel for both the parties. Perused the record. This appeal is preferred by original defendants no. 6 & 7 against the order passed by IInd Additional Civil Judge, Senior Division, Margao restraining defendants no. 6 & 7 from interfering and disturbing the peaceful possession and enjoyment of the plaintiffs in respect of suit plots pending the suit.

2. The plaintiff filed the suit for declaration and injunction on ground that they are the owners in peaceful possession and enjoyment of the suit plot of property, situated at Cola which is registered in the Land Registration Officer, Salcete under No. 12913 and in the Taluka Revenue Office, Canacona under Matriz No. 632 and commonly surveyed under Survey No. 369/1 (part) of Cola Village. While filing the appeal, application for temporary injunction, restraining defendants no. 6 & 7 from interfering and disturbing the peaceful possession and enjoyment of the

plaintiffs in respect of suit plot also came to be filed.

3. After hearing both the parties and on the basis of available evidence on record, the trial Judge was of the view that plaintiff had proved prima facie case to seek temporary injunction against the defendants no. 6 & 7 and hence the application came to be allowed. Hence the present appeal.

4. I heard both the parties. In the course of hearing it was apparent that adjudication of the issue involved at this stage would basically amount to adjudication of the suit itself, especially when it is a suit for perpetual injunction. In view of this position, I am inclined to hold that the direction for expeditious hearing of the suit would be the proper remedy in the interest of both the parties and, therefore, I propose to issue necessary direction to the lower Court.

5. Hence the Additional Civil Judge, Senior Division, Margao is directed to take necessary steps to adjudicate the Special Civil Suit No. 38/2005/II expeditiously, so as to complete the hearing on merits, after giving opportunity to both the sides to lead evidence, on or before

31/07/2007 and pending the suit, all the concerned parties shall maintain status quo with regard to the suit property as on today. With this direction the appeal stands disposed of with no order as to costs. Consequently, the Civil Application No. 120 of 2006 also stands disposed of with no order as to costs.

P. V. KAKADE, J.

NH